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HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

Single Bench: Hon'ble Shri Satish K. Agnihotri, J.

W. P. No. 1827 OF 2003

Petitioner : Itwari Lal Ajgole, S/o Shri Sadh Ram Ajgole, aged about 56 years, Occupation Service, presently posted as Block Education Officer (Principal), Gharghoda, District Raigarh (C.G.).

Versus

Respondents : 1. State of Chhattisgarh, thru, Secretary, Department of SC, ST, Backward Class & Minority Welfare, Mantralaya, Dau Kalyan Singh Bhawan, Raipur (C.G.).

2. The Commissioner, Tribal Development Department, Raipur (Chhattisgarh).

3. The Director, Tribal Development Department, Raipur (Chhattisgarh).

4. Narsingh Sidar, Incharge Block Education Officer, Gharghoda, District Raigarh (Chhattisgarh).

Shri Ashish Shrivastava, counsel for the petitioner.
Shri Pankaj Shrivastava, Panel lawyer for the respondents No. 1 to 3/State.
Miss Sunita Jain, counsel for the respondent No. 4.

ORAL ORDER

(6th February, 2006)

1. The petitioner, who was working as Block Education Officer at Gharghoda, District Raigarh was transferred vide order dated 3.5.2003 (Annexure P-3) to the Government Higher Secondary School, Khamhar, Block Development Dharamjaigarh, District Raigarh.

2. The petitioner has challenged the impugned transfer order dated 1.2.2003 (Annexure P-2), also whereby the respondent No. 4 was transferred from the post of Lecturer, Government

Higher Secondary School, Urba, Block Development Tamnar, District-Raigarh on his own expenses to the post of In-Charge Block Education Officer, Gharghoda, District-Raigarh in place of the petitioner.

3. The petitioner has filed this petition challenging impugned transfer order on the ground that the impugned transfer order dated 3.5.2003 (Annexure P-3) was malafide exercise of power to accommodate the respondent No. 4 at the office of Block Education Officer, Gharghoda, District-Raigarh.

4. This Court, vide interim order dated 26.3.2003 granted relief to the extent that the petitioner would be allowed to continue till the next date of hearing, if the petitioner had already not been relieved. This order was neither varied nor modified later on. By virtue of this interim order, the petitioner continued at the old place of posting.

5. Learned counsel for the petitioner submits that this impugned orders dated 3.5.2003 and 1.1.2003 deserve to be quashed because it amounts to malafide exercise of powers.

6. I have gone through the documents appended to the petition and heard learned counsel for the parties. The petitioner has not proved any malafide except that the respondent No. 3 has transferred the petitioner accommodate the respondent No. 4 in place of the petitioner. The alleged malafide is not proved. Even otherwise, the petitioner has got final relief by way of interim order. Even if the impugned orders are quashed, the net effect would have been that the petitioner have continued

at the same place of posting that the petitioner already enjoyed by virtue of the interim order passed by this Court.

7. In the facts of the case, it is not necessary to go into the validity of the impugned order at this stage in detail. However, respondents/authorities are expected that they would not insist upon compliance of the impugned transfer orders dated 1.2.2003 and 3.5.2003.

8. The respondents/authorities have liberty to post an employee at a particular place in the public interest as well as in administrative exigency, in accordance with law.

9. It is well settled principle of law that transfer is an incident of service and it is for the employer to decide as to where a particular officer/employee is to be posted in the interest of administration and public. This Court has limited jurisdiction to interfere in transfer matters and this Court can interfere only in the case of proved malafide, non-competence of the authority passing the transfer order, and order not being in conformity with the rules and regulations.

10. In view of the above, the petition is disposed of. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

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